

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONALD CONTOR,

Plaintiff,

Hon. Robert Holmes Bell

v.

Case No. 1:07 CV 303

PATRICIA CARUSO, et al.,

Defendants.

REPORT AND RECOMMENDATION

This matter is before the Court on Defendant Ivens' Motion for Summary Judgment. (Dkt. #82). Pursuant to 28 U.S.C. § 636(b)(1)(B), the undersigned recommends that Defendant's motion be **granted** and Plaintiff's action **dismissed**.

BACKGROUND

On May 5, 2009, the undersigned issued a Report and Recommendation that Defendant Ivens' Motion for Summary Judgment be granted and Plaintiff's action dismissed. (Dkt. #98). Plaintiff objected to this recommendation, in part, on the ground that he was never properly served with copies of certain exhibits on which the Court relied when recommending that Defendant's motion be granted. (Dkt. #99). The Honorable Robert Holmes Bell reviewed Plaintiff's objection and concluded that "the Court cannot find a clear indication in the record that [the exhibits in question] were properly served on Plaintiff." (Dkt. #102). Accordingly, Judge Bell rejected the Report and Recommendation and ordered Defendant Ivens to serve a copy of the exhibits in question on Plaintiff "and submit to the Court

evidence of such service by June 19, 2009.” (Dkt. #102). Judge Bell ordered that Plaintiff be given thirty days “from the date that such evidence of service is filed with the Court” to “respond to Defendant’s motion for summary judgment.” (Dkt. #102). Judge Bell further ordered that Defendant Ivens be afforded fourteen days to submit a reply to Plaintiff’s response, after which time “the Magistrate Judge will reconsider Defendant’s motion for summary judgment.” (Dkt. #102).

On June 17, 2009, Defendant Ivens’ counsel submitted a pleading establishing that she has provided to Plaintiff copies of the exhibits in question. (Dkt. #104). Accordingly, the Court concludes that Defendant Ivens’ motion for summary judgment is ready for reconsideration. Plaintiff has not submitted any additional evidence or argument in support of his opposition to Defendant Ivens’ motion for summary judgment. Accordingly, for the reasons articulated in my May 5, 2009 Report and Recommendation, the undersigned recommends that Defendant Ivens’ motion be granted and Plaintiff’s action dismissed.

OBJECTIONS to this Report and Recommendation must be filed with the Clerk of Court within ten (10) days of the date of service of this notice. 28 U.S.C. § 636(b)(1)(C). Failure to file objections within the specified time waives the right to appeal the District Court’s order. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir.1981).

Respectfully submitted,

Date: August 14, 2009

/s/ Ellen S. Carmody
ELLEN S. CARMODY
United States Magistrate Judge